

Amendment No. 1 to SB2445

Bell
Signature of Sponsor

AMEND Senate Bill No. 2445*

House Bill No. 2677

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-16-501(1), is amended by adding the following new subdivision:

(F) A nominee, member, representative, or other holder of a position on a board, commission, or public body of the state or a political subdivision thereof;

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 16, Part 5, is amended by adding the following new section:

39-16-506.

(a) As used in this section:

(1) "Coercion" means a threat, however communicated, to:

- (A) Commit any offense;
- (B) Wrongfully accuse any person of any offense;
- (C) Expose any person to hatred, contempt, or ridicule;
- (D) Harm the credit or business reputation of any person; or
- (E) Take or withhold action related to the employment of a public servant or a family member of a public servant;

(2) "Employee" includes, but is not limited to:

- (A) A person employed by the state or any municipality, county, department, board, commission, agency, instrumentality, political subdivision, or any other entity of the state;
- (B) A person employed by a private employer; or

(C) A person who receives compensation from the federal government for services performed for the federal government, notwithstanding that the person is not a full-time employee of the federal government; and

(3) "Employer" includes, but is not limited to:

(A) The state or any municipality, county, department, board, commission, agency, instrumentality, political subdivision, or any other entity of the state;

(B) A private employer; or

(C) The federal government, as to an employee who receives compensation from the federal government for services performed for the federal government, notwithstanding that the person is not a full-time federal employee.

(b) An employer, or an agent of an employer acting on behalf of the employer, commits an offense who by means of coercion:

(1) Influences or attempts to influence an employee who is a public servant to vote or not to vote in a particular manner; or

(2) Influences or attempts to influence an employee who is a public servant to resign as a public servant or unnecessarily recuse themselves from a public body with the intent to influence the action or inaction of a public body.

(c) A violation of this section is a Class E felony.

SECTION 3. Tennessee Code Annotated, Title 50, Chapter 1, Part 3, is amended by adding the following as a new section:

(a) A public servant who was terminated by the public servant's employer or agent of the employer in violation of § 39-16-506 may bring a cause of action against the employer for unlawful discharge and any other damages to which the employee may be entitled, subject to the limitations set out in § 4-21-313, and:

(1) Treble the amount of damages resulting from or incident to the unlawful discharge; and

(2) Reasonable attorney fees and costs.

(b) If a public servant files a cause of action under this section for any improper purpose, such as to harass or to cause needless increase in costs to an employer, the court, upon motion or upon its own initiative, shall impose upon the public servant an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred, including reasonable attorney's fees.

(c) In any cause of action for discharge brought pursuant to this section, the plaintiff shall have the burden of establishing a prima facie case of unlawful discharge. If the plaintiff satisfies this burden, the burden shall then be on the defendant to produce evidence that one (1) or more legitimate, nondiscriminatory reasons existed for the plaintiff's discharge. The burden on the defendant is one of production and not persuasion. If the defendant produces such evidence, the presumption of discrimination raised by the plaintiff's prima facie case is rebutted, and the burden shifts to the plaintiff to demonstrate that the reason given by the defendant was not the true reason for the plaintiff's discharge and that the stated reason was a pretext for unlawful discharge. The foregoing allocations of burdens of proof shall apply at all stages of the proceedings, including motions for summary judgment. The plaintiff at all times retains the burden of persuading the trier of fact that the plaintiff has been the victim of unlawful discharge.

(d) This section abrogates and supersedes the common law with respect to any claim that could have been brought under this section.

SECTION 4. This act takes effect July 1, 2022, the public welfare requiring it.